

**Monday, March 21, 2022, 7:00 pm  
Kasson Township Hall  
10988 S. Newman Road, Maple City, MI 49664**

I. Call Meeting to Order/Pledge of Allegiance

Chairman Roush called the meeting to order at 7:02 pm with the Pledge of Allegiance.

II. Roll Call of Commissioners and Staff: Recognition of Visitors

- A. Present: Jim Anderson, Vice Chairman; Tad Carter, Township Board Rep; Dave Noonan, Commissioner; Jerry Roush, Chairman; Chuck Schaeffer, Secretary
- B. Staff: Tim Cypher, Zoning Administrator; Allison Hubley-Patterson, Recording Secretary
- C. Visitors present: 2 members of the general public were in attendance: Ms. Dana Boomer, Kasson Township Clerk; Mr. Jim Lively, Lively Holdings, LLC

III. Consideration of Agenda (Attachment "A")

Chairman Roush asked for a motion to approve the agenda. **CARTER MOVED TO APPROVE THE AGENDA AS PRESENTED; NOONAN SECONDED. ALL PRESENT IN FAVOR, MOTION CARRIED.**

IV. Declaration of Conflicts of Interest – None reported at this time.

V. General Comments from the Public

Ms. Boomer stated that, in the future, a number of potential projects in the Township would involve changes to municipal structures. She distributed a document with proposed amendments to the Kasson Zoning Ordinance and requested that this be an agenda item for the April 18<sup>th</sup> Planning Commission Meeting.

Ms. Boomer indicated that the Township is looking for a path so that these projects may be completed as necessary in the future, but no projects are pending immediate approval. Chairman Roush inquired if the Township Board is considering a new fire station. Ms. Boomer responded that this will be a necessity in the coming years.

An electronic version of the document presented by Ms. Boomer will be sent to Schaeffer for the April meeting and the item will be added to the agenda.

## VI. Approval of Minutes

Chairman Roush stated that approval of the January 17, 2022 minutes was tabled to this meeting due to the fact that there was not a quorum previously. Roush asked for a motion to approve the January minutes. **CARTER MOVED TO APPROVE THE MINUTES OF THE JANUARY 17, 2022 MEETING; NOONAN SECONDED. ALL PRESENT IN FAVOR, MOTION CARRIED.**

Chairman Roush asked for a motion to approve the February minutes.

Regarding the Tom Krause project, Schaeffer inquired about section 7.7.B on page 3 of the minutes. The minutes state: "The site plan proposes 2-inch caliper pine trees which the applicant stated should be four to five feet in height". Schaeffer recalls that the calipers would be 2.5-inches on the site plan. Cypher stated that he would investigate this further and notify the Recording Secretary.

**SCHAEFFER MOVED TO APPROVE THE MINUTES OF THE FEBRUARY 21, 2022 MEETING WITH AN ASTERISK FOR SECTION 7.7.B; CONFIRMATION WILL BE MADE REGARDING WHETHER THE CALIPERS WILL BE 2-INCH OR 2.5-INCH AND THE MINUTES WILL BE CORRECTED, IF NECESSARY. ANDERSON SECONDED. ALL PRESENT IN FAVOR, MOTION CARRIED.**

## VII. Correspondence Received

Cypher reported that he received comments over the weekend regarding the language in the Master Plan within the commercial zoning district. The Public Hearing on the Master Plan has been set for the April 18, 2022 PC meeting.

Schaeffer shared information on a "Right to Farm" seminar that will be held at the Government Center on Wednesday, April 27, 2022 from 6:30 p.m. to 8:00 p.m. Ryan Coffey Hoag from the MSU Government & Public Policy/Community & Economic Development office will present. There is no cost to attend this session. Schaeffer suggested that this would be an excellent training opportunity for the members of the PC.

## VIII. Area Reports

A. Chairman Roush – no report

B. Secretary Schaeffer

Schaeffer addressed some confusion over the agenda for the February PC meeting. The requirement is for the agenda to be delivered by the

Friday prior to a Monday meeting. Schaeffer will make minor additions to the agenda and send this via email up until approximately 5:30 p.m. on the day of the meeting or it will be posted on the website. Schaeffer stated that he was told approximately one year ago that PC members wished to have the weekend prior to a meeting to review the agenda. He asked that all members please monitor their email closely leading up to the day of a meeting for any new information that may be sent out.

Cypher added that when correspondence comes in, legal counsel has advised that it should be distributed. Cypher will forward anything that he received to members of the PC. Cypher also stated if correspondence is received and relevant to the meeting, he will bring copies for the PC members. If necessary, additions to the agenda can be made at the PC meeting. Chairman Roush expressed that PC members should be certain to read their email and come prepared to all meetings.

- C. Commissioner Carter – no report
- D. Commissioner Noonan – no report
- E. Zoning Administrator (Attachment “B”)

Cypher stated that there was one land division inquiry in February and one land use permit issued. A total of \$150 in fees were collected in the month of February.

- F. Technology Advisory Committee

Schaeffer discussed the fiber optic cable which appears to be coming down County Road 667 but stated that there may be nothing to the west. Kasson Township is the second most underserved township in the county. It was discussed that a splitter could be installed where service is needed. Spectrum is working to lay cable down on County Road 669 south in Benzie County at the present time. Funding allocated to this project came from a Rural Digital Opportunity Fund (RDOF) auction and is given for use over the course of ten years; it must be returned if it is not used. Schaeffer also stated that, depending on where one resides on the census tract, there is no guarantee that a resident will have service. The DSL that some residents now have is not considered to be high-speed internet according to federal government definition.

Ms. Boomer commented that the township received \$160,000 but that this money has not been allocated to specific purposes at this point. Schaeffer added that the Technology Advisory Committee has discussed that Myles Kimmerly Park should be serviced and the Kasson Township Hall should have service as well.

IX. Unfinished Business – none

X. New Business

A. Lively Reconsideration of Special Use Permit (SUP) Order of Approval and the Findings of Fact

Mr. Lively addressed the PC and began by expressing his frustration over waiting for seven months about his application for a special use permit. Mr. Lively contends that ZA Cypher and the township attorney, Mr. Grier, made changes to the requirements of his SUP after the PC had rendered a decision on the matter in July of 2021. He stated that the zoning ordinance is clear that the PC makes the final decision on such matters.

The letter that Mr. Lively sent to members of the PC was reviewed. He noted that a Public Hearing was held in June of 2021 and the SUP application was approved in July of 2021 with conditions; the PC agreed to approve Phase I of the project at that time. This phase included the campground and a retail farm store. Phase 2 would have included a music event center and a sound engineering study regarding noise level was requested. Mr. Lively rescinded the application for Phase 2 of the project in September of 2021.

He noted that language has been inserted regarding music but this does not pertain to the campground as no musical events will be held here. He informed the PC that he has been advised to not take this matter personally as the role of the PC is to protect the township. Mr. Lively believes that Mr. Grier has continued to insert language regarding a musical event center but stated that this is no longer applicable. Mr. Lively addressed three points of contention.

Point 1 – Due to the fact that there is no request for indoor music, Mr. Lively proposed that language regarding indoor amplified music be removed.

Point 2 – Mr. Lively does not believe that prohibitions on outdoor acoustic music anywhere on the property is necessary as this also does not apply; he requested that this language be removed as well.

Point 3 – Mr. Lively asked for clarification on the term “Public or Semi-Public Uses”. At the July 2021 PC meeting, this topic was addressed and it was stated this would not be considered until after Phase 2; however, there will no longer be a Phase 2 to this project. Mr. Lively requested that the language be retained from what was agreed upon in July of 2021.

Discussion ensued between Cypher and Schaeffer regarding the minutes from the July and September meetings of 2021. Schaeffer commented that he

did not see any motions to approve the SUP in the minutes from these meetings. Cypher stated that there are many comments made in the minutes which address the conditions that were placed.

Discussion continued regarding the July 19<sup>th</sup>, 2021 minutes from page 5 paragraph 6 which stated "Section 7.8 Conditions and Safeguards.....Chair Otto advised planning commissioners to adopt the attorney recommendations with Lively having an issue with number 12 of prohibiting acoustic music. Discussion followed whether to keep the attorney's recommendation of prohibiting acoustic music. All planning commission members agreed to keep all of the attorney's recommendations. The planning commissioners agreed that any changes can be made once the sound engineer's report is received."

Further discussion followed regarding the July 19<sup>th</sup>, 2021 minutes from page 9, paragraph 2 where "Carter moved to approve the expansion of the campground and farm market per changes in the special land use approval and Findings of Fact to provide screening per the zoning ordinance, plus if screening removed by neighbors, the Livelys will replace, with a performance guarantee required in an amount determined at the August meeting; Anderson seconded. Roll call vote: Anderson – Yes; Carter – Yes; Roush – Yes; Schaeffer – Yes; and Otto – yes. All present in favor, motion carried."

Cypher stated that he will defer to the PC and to the township attorney on this matter. Schaeffer expressed that Mr. Lively has outlined some valid concerns but there is no motion in the record which indicates that approval was granted subject to the following conditions. This would translate to the SUP never being approved. Schaeffer added that the Findings of Fact are facts and do not represent a motion.

Chairman Roush asked Schaeffer if he recalled putting something together regarding the Lively permit and Schaeffer responded, "No". Schaeffer looked on his computer and stated that he was unable to find an SUP document.

Cypher stated that he worked closely with Mr. Grier on the draft findings and the order of approval and indicated that this should not be taken personally by Mr. Lively. Cypher respectfully disagreed with Mr. Lively and Schaeffer and reiterated that the conditions were stated in the minutes. Cypher added that if they had not been specified, there would be problems with enforcement going forward.

Carter referenced the July information relative to the Lively application but Mr. Lively again reiterated the three points that he is concerned about. The language prohibits him from having indoor music but he has not yet applied to use the building for this purpose.

Schaeffer stated that the Order of Approval is a starting point because this is the closest thing that the PC has to the SUP. Chairman Roush indicated that Mr. Lively made a valid point about the term “public and semi-public uses”. Noonan stated that he does understand Mr. Lively’s frustration and encouraged the PC to address the SUP as quickly as possible and correct the language that needs to be addressed so future applicants do not experience something similar.

Noonan asked if a motion could be made at this meeting to pass the SUP for Mr. Lively’s benefit. Carter stated that he would support the document that PC members have in their possession with the conditions noted. Schaeffer added that Mr. Lively may return to the PC at a later date with changes; these could be major or may be minor changes that the ZA could approve. Schaeffer stated that if Mr. Lively were to sell the property, the new owner could come back to the PC in the future.

Mr. Lively discussed some additional points. Regarding item #8, noise and sound levels will be controlled. Item #9 will not be a concern as odors will also be controlled. Regarding item #10, outdoor and indoor music will be prohibited; if he were to sell the property, he does not see why the new owner would believe that noise is permitted. In response to this comment, Schaeffer commented that many buyers do not undertake proper due diligence before purchasing a property.

Chairman Roush asked Mr. Lively how the language that he brought to the attention of the PC harms him. Mr. Lively stated that he risks losing his SUP if certain things were to happen; for example, if two individuals were to play their guitars and sing quietly, the SUP may be at risk. Schaeffer inquired about the rules and regulations that Mr. Lively will distribute. Mr. Lively confirmed that there will be language regarding the various conditions in the list of rules and regulations. Schaeffer informed Mr. Lively that, in his opinion, if this were the case, he would be in a defensible position if campers chose to violate the rules. Carter added that if these conditions are not in writing, Mr. Lively will have nothing to fall back on. Chairman Roush reminded Mr. Lively that the PC fully expects him to enforce the rules that he sets forth. If complaints were made, the ZA would investigate.

Mr. Lively stated that he is fine with items 8 and 9 but has concerns with item #10. Mr. Lively commented that the PC must decide on the prohibitions they want and that he can try to keep the noise down but this puts his SUP at risk. He would like to see language in the ordinance addressing sound nuisance.

Chairman Roush stated that the PC is trying to protect the township. Mr. Lively inquired again about his third point relative to public and semi-public uses and asked about the definition of this term and inquired if the township attorney defines this term. Chairman Roush informed Mr. Lively that the



attorney only provides us with legal guidelines. Schaeffer added that we do not have any definition regarding an “event”.

Cypher stated that he and Mr. Lively were in disagreement. He indicated that Mr. Lively believed he was able to do anything listed in the zoning ordinance as a “use by right” in the commercial zoning district. Mr. Lively was concerned that before he comes to the PC to ask for approval for a public or semi-public event, he is already prohibited. Cypher reiterated that the PC is memorializing this as a matter of record. Cypher noted that the July 19<sup>th</sup>, 2021 minutes tabled this discussion however, the ZA will make a determination when the matter is brought forth to the PC at a later date. Cypher recommends that the language be kept in the SUP approval as presented.

Carter again stated that he would support the SUP based on what is on pages 1 through 5 in the binder that all PC members have. Schaeffer asked why we are taking away something. Cypher stated that Mr. Lively must come to the PC to get approval for a public or semi-public use.

Cypher informed the PC that, when dealing with this issue, we are looking at a snapshot in time only. As it exists today, nothing has been approved by the PC. Ms. Boomer asked about a site plan. Cypher read from section 8.1 of the Kasson Township Zoning Ordinance (Development and Site Plan Review). With regard to a special use permit, Mr. Lively could return to the PC in the future to have special uses approved. Mr. Lively proposed that the term “public and semi-public events” now be referred to as “public and semi-public uses”.

Noonan again asked if the PC can do something for Mr. Lively at this meeting. Schaeffer said we can look at the Order of Approval. Cypher stated that the word “uses” will replace “events” in order to be consistent with the zoning ordinance.

**NOONAN MOVED TO APPROVE THE SPECIAL USE PERMIT AND FINDINGS OF FACT AS PRESENTED TONIGHT FOR LIVELY HOLDINGS BASED ON THE DOCUMENT OF JULY 19, 2021 WITH THE WORDING CHANGE, AS DISCUSSED; ANDERSON SECONDED. ALL PRESENT IN FAVOR, MOTION CARRIED.**

The document will be dated this date and will be signed tonight so Mr. Lively may proceed. Cypher stated that he will send a clean copy to Schaeffer and PC members and Schaeffer will add electronic signatures. However, since the time of this meeting, further investigation has revealed that notarized signatures must be prepared in “wet ink”. Cypher also noted that in the zoning ordinance under Section 7.16, there is a requirement for recording of the special land use permit approval. Schaeffer inquired as to who managed the recording process. Cypher stated he believes it is the township based on

Section 7.16 of the zoning ordinance. Schaeffer stated he could speak to the Register of Deeds to obtain instructions on how to record the SUP; however, at this time, he is not comfortable doing so without further learning. Cypher stated that the attorney should record the document and Schaeffer agreed that legal counsel should manage this process. Schaeffer asked the Recording Secretary to note in the minutes that this will be the policy going forward for recording SUPs.

**B. Planning Commission 2021 Report to the Township Board**

Schaeffer walked the PC through the document and asked all members to check to ensure that he has accurately noted the meetings they have attended. If a member did attend, they received credit; otherwise, their absence must be noted as “excused” in the minutes.

**NOONAN MOVED TO ACCEPT THE DOCUMENT AS PRESENTED;  
CARTER SECONDED. ALL PRESENT IN FAVOR, MOTION CARRIED.**

XI. Comments from the Public – none

XII. Comments from the Commissioners

Schaeffer serves as the Chairman of the Board of Review. He informed the PC that there was a recent appeal from a property owner who wanted their property value reduced due to odors, seagulls and flies that affect the property from the nearby composting operation. The appeal was denied.

Cypher stated that MDARD recently reviewed the Krull property two times but the property owner was found to be in compliance.

XIII. Next Meeting – Monday, April 18, 2022, 7:00 p.m. Public Hearing for the Master Plan

XIV. Adjournment

**CARTER MOVED TO ADJOURN THE MEETING; SCHAEFFER  
SECONDED. ALL PRESENT IN FAVOR, MOTION CARRIED.**

The meeting was adjourned at 8:50 pm.

Respectfully submitted,

Allison Hubley-Patterson  
Recording Secretary



**ATTACHMENT “A” – TENTATIVE AGENDA**

v.2

**KASSON TOWNSHIP PLANNING COMMISSION**  
**Tentative Agenda**  
**March 21, 2022**

1. Call Meeting to Order/Pledge of Allegiance
2. Roll Call of Commissioners and Staff; Recognition of Visitors
  - A. Commissioners present (roll call): Anderson, Carter, Noonan, Roush, Schaeffer
  - B. Staff - Cypher, Hubley-Patterson
  - C. Visitors present \_\_\_\_\_
3. Consideration of Agenda: Additions or Deletions [\*]
4. Declaration of Conflicts of Interest
5. General Comments from the Public
6. Approval of Minutes – January 17, 2022 and February 21, 2022 [\*]
7. Correspondence Received
8. Area Reports
  - A. Chairperson - Commissioner Roush
  - B. Secretary - Commissioner Schaeffer
  - C. Township Board – Commissioner Carter
  - D. Zoning Board of Appeals – Commissioner Noonan
  - E. Zoning Administrator’s Report. - Zoning Administrator Cypher [\*]
  - F. Technology Advisory Committee - Schaeffer
9. Unfinished Business
 

None.
10. New Business
  - A. Lively Reconsideration of SUP Order of Approval and/or the Findings of Fact [\*]
  - B. Planning Commission 2021 Report to the Township Board. [handout provided at meeting]
11. Comments from the Public
12. Comments from the Commissioners
13. Next Meeting: April 18, 2022 , 7:00 PM, Township Hall
14. Adjournment

[\*] - Following an agenda item means there is an attachment in the meeting packet.

Chuck Schaeffer  
 Commission Secretary

## ATTACHMENT "B" – ZONING ADMINISTRATOR'S REPORTS

Kasson Township  
Zoning Administrator's  
FEBRUARY 2022 REPORT

3/5/2022

To: Kasson Township Board &amp; Planning Commission

From: TIMOTHY A. CYPHER

<b>Land Use Permits Issued:</b>	<b>1</b>	<b>YEAR TO DATE 1</b>
Signs / Home Occupation	0	
Single Family Residences (SFR)	0	
Additions to SFR	0	
Garages	0	
Decks & Porches / MISC.	0	
Accessory Buildings	0	
Commercial Construction	1	REMODEL INTERIOR
Stairs / Landings / Fences	0	
Agriculture construction	0	
Demolitions / Relocating	0	
Boat houses	0	
Solar Panels	0	
Renewal of / Change of use	0	
Z.B.A. proceedings	0	1 INQUIRY
Special Land Use Permits	1	KRAUSE 1 INQUIRY
 <b>Land Divisions</b>	 1	 1 INQUIRY
<b>Property Line Adjustments</b>	0	1 INQUIRY
<b>Private Roads / Driveways</b>	0	0 INQUIRY
 <b>Zoning / Site Plan Reviews</b>	 0	 0 INQUIRY
 <b>Construction / Site Inspections</b>	 3	
 <b>Violations/Investigations</b>	 0	 **VIOLATIONS**
	0	INVESTIGATIONS

I also supplied information via 26 phone calls, 19 via internet to Township residents & others.

Please feel free to contact me with any questions.

Phone 231-360-2557

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